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HAWAII COMMUNITY
DEVELOPMENT
AUTHORITY

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OLIVERMcMILLAN PACIFIC RIM, LLC

BEFORE THE HAWAII COMMUNITY
DEVELOPMENT AUTHORITY

In the Petition of	)	DOCKET NO. CCED KAK 2015-2
)	
OLIVERMcMILLAN PACIFIC RIM, LLC,	)	PETITIONER OLIVERMcMILLAN
	)	PACIFIC RIM, LLC'S PROPOSED
for waiver and suspension of § 15-217-55(k)(2)	)	FINDINGS OF FACT, CONCLUSIONS
of the Mauka Area Rules as applied to the	)	OF LAW, AND ORDER;
Symphony Honolulu Project.	)	CERTIFICATE OF SERVICE
)	
	)	<u>HEARING:</u>
	)	Dates: July 22 & 23, 2015
	)	Time: 9:00 a.m.
)	
	)	<u>HEARING LOCATION:</u>
	)	547 Queen Street
	)	Honolulu, Hawai'i 96813

PETITIONER OLIVERMcMILLAN PACIFIC RIM, LLC'S
PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Petitioner OliverMcMillan Pacific Rim, LLC ("OMPR"), by and through its attorneys,
McCorryston Miller Mukai MacKinnon LLP, hereby submits its Proposed Findings of Fact,
Conclusions of Law, and Order.

FINDINGS OF FACT

To the extent that any Findings of Fact are more properly construed as Conclusions of
Law, they shall be so construed.

A. PROCEDURAL HISTORY.

1. In a letter dated February 23, 2015 to OMPR (“First Notice of Violation”), the Hawaii Community Development Authority’s (“Authority”) Executive Director notified OMPR that the Symphony Honolulu Project, currently under construction pursuant to Development Permit No. KAK 12-075, was in violation of Section 15-217-55(k)(2) of the Hawaii Administrative Rules (“Glass Rule”).
2. The First Notice of Violation explained that the Glass Rule requires that the windows above the ground level have a “visible light transmission” of fifty percent (50%) or greater: “By email dated February 4, 2015, you confirmed that you have already begun installing windows on the tower portion of the Project which have a VLT of twenty-eight percent (28%).”
3. On March 3, 2015, OMPR wrote back to the Executive Director acknowledging receipt of the First Notice of Violation and stating that OMPR would be preparing and filing with the HCDA a Petition, pursuant to Hawaii Administrative Rule (“HAR”) § 15-219-98, to request a waiver or suspension of the Glass Rule. OMPR also stated that it did not intend to remove any of the “so-called ‘non-conforming windows’ pending the final determination on its Petition,” and its response letter is “without prejudice to OMPR’s rights under [HAR] § 15-219-99(e) to file an appeal of the [First Notice of Violation] to the Authority in accordance with [HAR] § 15-219-34 within thirty (30) days of OMPR’s receipt of the [First Notice of Violation].” OMPR noted that the First Notice of Violation failed to advise it of its appeal right, as required by the HAR.
4. OMPR received a letter dated March 5, 2015 from the Executive Director, again notifying OMPR that the glass being installed at the Symphony Honolulu Project did not conform to the requirements of the Glass Rule and requesting that all “non-conforming windows which were installed be removed by no later than April 5, 2015” (“Second Notice of Violation”).
5. The Second Notice of Violation advised that, pursuant to HAR § 15-219-99(e), OMPR “may appeal to the Authority within (30) days” of its receipt of the letter.
6. On March 23, 2015, OMPR sent a letter to the Executive Director requesting that he “initiate the necessary process and procedure to waive and/or suspend § 15-217-55(k)(2) of the Mauka Area Rules by (a) administrative action by the Executive Director, or (b) approval of the HCDA Board for the reasons more particularly set forth below in this letter.”
7. On April 1, 2015, OMPR also sent a letter to the Executive Director acknowledging receipt of the Second Notice of Violation and explaining OMPR’s intention to (1) file a Petition pursuant to HAR § 15-219-98 to request a waiver or suspension of § 15-217-55(k)(2) for the Symphony Honolulu Project, (2) file a Motion to Stay the Enforcement of the Second Notice of Violation, (3) file an

appeal to the Second Notice of Violation Letter, and (4) support an amendment and revision to § 15-217-55(k)(2) of the Mauka Area Rules.

8. On April 9, 2015, OMPR sent another letter to the Executive Director requesting that the Authority “initiate an administrative review process for the Glass Rule, as the implementation of the Glass Rule has resulted in direct conflicts with other Mauka Area Rules creating several unintended consequences, including, without limitation, the inability of projects to satisfy the Authority mandated minimum energy savings,” and “waive and/or permanently suspend the Glass Rule as applied to the Symphony Honolulu Project’s glass.”
9. On April 9, 2015, OMPR filed its Appeal of the Executive Director’s Notice of Violation Letter to Appellant, Dated March 5, 2015 and Received March 10, 2015 (“Appeal”). In its Appeal, OMPR requested that the Authority (1) waive the Symphony Honolulu Project’s compliance with the Glass Rule, (2) specify that the Symphony Honolulu Project’s waiver is retroactive as of April 5, 2015, (3) suspend the Glass Rule for further review, and (4) set the Appeal to be heard by the Authority as a contested case.
10. On April 9, 2015, OMPR also filed its Motion for Modification of the Compliance Date of Notice of Violation, or in the Alternative to Stay Enforcement, Pending Consideration of Any Request by OliverMcMillan Pacific Rim, LLC for Waiver and Suspension of § 15-217-55(k)(2) of the Mauka Area Rules (“Motion for Modification”).
11. On April 14, 2015, OMPR filed its Motion to Stay Appeal Proceedings Pending Consideration of Any Request by OliverMcMillan Pacific Rim, LLC For Waiver and Suspension of § 15-217-55(k)(2) of the Mauka Area Rules requesting a stay of any appeal proceedings of the appeal initiated by OMPR until the resolution of all issues regarding the Glass Rule as applied to the Symphony Honolulu Project (“Motion to Stay”).
12. The HCDA heard OMPR’s Motion for Modification and Motion to Stay on May 6, 2015, at 9:00 a.m. Then, on May 21, 2015, the HCDA entered its Order Granting OliverMcMillan Pacific Rim, LLC’s Motions to Stay Appeal Proceedings Pending Consideration of Any Request by OliverMcMillan Pacific Rim, LLC for Waiver and Suspension of § 15-217-55(k)(2) of the Mauka Area Rules; and to Stay Enforcement, Pending Consideration of Any Request by OliverMcMillan Pacific Rim, LLC for Waiver and Suspension of § 15-217-55(k)(2) of the Mauka Area Rules (“Motions Order”).
13. The Motions Order also stated that “[t]he parties shall proceed expeditiously with any request for a waiver and suspension.”
14. At its May 27, 2015 public meeting, the Authority denied OMPR’s request for administrative relief set forth in its April 9, 2015 letter.

15. On May 28, 2015, OMPR filed its Petition for Waiver and Suspension of § 15-217-55(k)(2) of the Mauka Area Rules (“Petition”), requesting that the HCDA (1) waive or permanently suspend the Glass Rule as to the Symphony Honolulu Project (Development Permit No. KAK 12-075), that such waiver or permanent suspension be retroactive from April 5, 2015, and (2) suspend the Glass Rule for the Kaka‘ako Community Development District in general pending further review, analysis, and research prior to consideration of an appropriate modification and/or amendment to remove the conflict and negative impacts of the current Glass Rule on other Mauka Area Rules. OMPR further requested that the HCDA set its Petition for expedited review and determination and attached Exhibits “1” through “7” thereto.
16. The Authority held two public hearings, on July 22 and July 23, 2015, commencing at 9:00 a.m., concerning OMPR’s Petition. OMPR presented all of its evidence and oral argument in favor of granting its Petition.
17. Over the course of the July 22, 2015 hearing, Dan Nishikawa, President of OMPR, testified as a lay witness on behalf of OMPR, and the following expert witnesses testified: David Miller, Keith M. Chan, Jeanne Murata, Jon Weir, and Patrick Yen. See 7/22/2015 Transcript of Proceedings (“Tr.”) at 8:1-23; see also 7/22/2015 Tr. at 68:9-15. Moreover, the following exhibits were admitted into evidence: OMPR Exhibits 1, 2, 3, 4, 5, 6, 7, A, B, C, D, E, F, G, H, I, and J; and the Authority’s expert consultant report, HCDA Exhibit A, prepared by Patrick Yen of Douglas Engineering. See 7/22/2015 Tr. at 7:18-21; see also 7/22/2015 Tr. at 67:21 to 68:3.
18. Having reviewed and considered the evidence and arguments presented by OMPR at the hearing, together with the entire record of this proceeding, the Authority hereby renders the following findings of fact.

B. THE GLASS RULE AND GREEN BUILDING SECTION

19. The Glass Rule states in pertinent part: “Window glazing shall be transparent with clear or limited UV tint so as to provide views out of and into the building. Visible light transmission level of windows on the ground floor shall be seventy per cent or greater and on all other floors the visible light transmission level shall be fifty per cent or greater[.]” See HAR § 15-217-55(k)(2).
20. The Authority is committed to encouraging energy efficiency and sustainability in Kaka‘ako as evidenced by the following statement found in the “Green Building” section of the Mauka Area Rules: “This section provides standards intended to result in a responsible development pattern that conserves natural resources and provides a healthy environment for all inhabitants of the mauka area.” See HAR § 15-217-59(a).
21. The “Green Building” section of the Mauka Area Rules mandates: “A project shall qualify for the applicable base LEED rating system at the appropriate

certification level (e.g., new construction projects shall qualify for LEED for new construction)[.]” See HAR § 15-217-59(c)(1).

22. The Green Building Section references Basic LEED minimum criteria of Energy and Atmosphere (“EA”) prerequisite, which requires 10% improvement and increased performance above the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) 90.1-2007 standards. See OMPR Exhibit “1” at 1.

C. THE PURPOSE OF THE GLASS RULE

23. The purpose of the Glass Rule, when it was created in 2011, was to regulate glass reflectivity and address the “heat island” effect glass reflectivity can create. See 7/22/2015 Tr. at 71:1-10; see also 7/22/2015 Tr. at 72:1-5.
24. The “heat island” effect is when the reflections of the sun off of building glass heat up the surrounding area thereby creating an unhealthy environment. See 7/22/2015 Tr. at 82:19 to 83:7.
25. Torti Gallas and Partners (“Torti Gallas”) was retained by the Authority’s staff to provide form based code consulting for the Authority’s new Mauka Rules in or around 2011. See OMPR Exhibit “7.”
26. The Authority’s staff explained that in 2011, Torti Gallas recommended regulating “visual light transmission” “because it means more light transmission, hence, less reflection and less external reflectivity and heat island effect.” See 7/22/2015 Tr. at 71:11-16.
27. The Authority’s staff also stated that Torti Gallas “recommended the 50 percent” standard for regulating “visual light transmission.” See 7/22/2015 Tr. at 75:17-23.
28. The Authority’s staff, when adopting the Glass Rule, believed “visible light transmission” directly correlated with a glazing’s reflectivity and intended for it to replace the prior rule regulating reflectivity. See 7/22/2015 Tr. at 72:6-18; see also 7/22/2015 Tr. at 74:6-14; 7/22/2015 Tr. at 80:24 to 81:11.
29. In a letter dated March 12, 2015, Neal Payton, a Principal at Torti Gallas, clarified its advice to the Authority’s staff as follows: “As part of that process of developing the code, Torti Gallas provided HCDA staff with general information on glazing. As part of that work, we suggested a standard requiring glazing to have a minimum Visible Light Transmission [] of 50% or greater in order [to] increase the visibility ‘in and out’ of buildings.” See OMPR Exhibit “7.”
30. HCDA staff informed the Board that in order to formulate an enforceable standard for glazing reflectance for adoption by the Authority, the Authority would need to first assemble a team of glazing experts to do a study and make recommendations

after taking into account various technical aspects of glazing. See 7/22/2015 Tr. at 86:5 to 87:1.

D. VISIBLE LIGHT TRANSMITTANCE DOES NOT AFFECT A GLAZING'S REFLECTIVITY OR TRANSPARENCY

31. A glazing's Visible Light Transmittance ("VLT") does not directly correlate to its reflectivity or transparency. See 7/22/2015 Tr. at 20:15-19; see also 7/22/2015 Tr. at 72:6-18.
32. OMPR's glazing expert, Jon Weir, testified that VLT is not a performance attribute of glass but an aesthetic one. See OMPR Exhibit "2" at 2.
33. Mr. Weir also noted that "a reduction in VLT from 50% to 30% does not noticeably alter one's ability to see through the glass." See OMPR Exhibit "2" at 2.
34. The Authority's staff's mechanical engineering expert, Patrick Yen, agreed with Mr. Weir's analysis and testified that "[a] high VLT does not necessarily relate to a low external reflectance." See HCDA Exhibit "A" at 5; see also 7/22/2015 Tr. at 85:1-4.

E. THE SYMPHONY HONOLULU PROJECT AND ITS CURRENT GLAZING

35. OMPR is the developer of the Symphony Honolulu Project situated at the corner of Ward Avenue and Kapiolani Boulevard (TMK No. (1) 2-1-044: 049, CPR Nos. 0001 thru 0389).
36. OMPR chose the high performance glass currently being installed in the residential tower of the Symphony Honolulu project, Viracon VRE1-30, in June 2013. See 7/22/2015 Tr. at 35:5-6.
37. The selected high performance glass, Viracon VRE1-30, has a VLT of 28% and a Solar Heat Gain Coefficient ("SHGC") of 0.19. See OMPR Exhibit "1"; see also OMPR Exhibit "2" at 2.
38. This SHGC value of 0.19 was required for the Symphony Honolulu Project to meet the energy model necessary for compliance with the Mauka Area Rules' Green Building Section, as calculated by OMPR's mechanical engineers. See OMPR Exhibit "2" at 2; see also 7/22/2015 Tr. at 33:11-15.
39. A prerequisite requirement of LEED EA, and therefore a requirement mandated by the Mauka Area Rules, is to use at least 10% less energy compared to a code-minimum baseline. See OMPR Exhibit "3"; see also HCDA Exhibit "A" at 7.

F. THE RELATIONSHIP BETWEEN VLT AND SHGC

40. VLT can be best defined as the amount of visible light that passes through a pane of glass into a building. See OMPR Exhibit “2” at 1; see also OMPR Exhibit “C” ¶ 14; 7/22/2015 Tr. at 25:3-5.
41. SHGC “is the measurement of heat gain through the glazing and into the interior of the unit which in Hawaii requires mechanical cooling to offset. In general the higher the SHGC value the lower efficiency in energy performance . . . SHGC increases as the value of VLT increases[.]” See OMPR Exhibit “1” at 2; see also OMPR Exhibit “2” at 1; OMPR Exhibit “C” ¶ 10; 7/22/2015 Tr. at 25:6-15.
42. The more visible light that passes through glass (*i.e.*, the higher the VLT), the higher the SHGC, which in turn results in more heat gain or buildup on the interior of the building. See OMPR Exhibit “2” at 1; see also OMPR Exhibit “C” ¶ 15; HCDA Exhibit “A” at 5.
43. There is a direct correlation between VLT, SHGC, and the overall energy performance of various glazing systems. See OMPR Exhibit “3”; see also 7/22/2015 Tr. at 13:19-24; 7/22/2015 Tr. at 25:1-3.
44. Engineers and architects generally recommend VLT values between 20% to 40% to balance light quality, interior comfort, and energy conservation. See OMPR Exhibit “1” at 2.
45. Mr. Yen agreed that 20% to 40% VLT is the industry standard. See 7/22/2015 Tr. 91:21 to 92:2.
46. OMPR’s architectural expert, David Miller, testified that it is not possible “to pursue the desirable and highly recommended higher LEED Silver, Gold, or Platinum ratings with the current VLT Rule.” See OMPR Exhibit “1” at 1.
47. Mr. Miller opines that in order to “meet both HCDA 50% VLT and energy performance rules, buildings would need to be designed with significantly less glass, up to 50% solid walls, or a combination thereof.” See OMPR Exhibit “1” at 2.
48. Mr. Miller testified that Architects Hawaii Limited and its glazing and mechanical engineers specialists “have found no glazing product that can achieve both HCDA 50% VLT Rule and HCDA Basic LEED EA prerequisite of 10% increased energy performance requirements.” See OMPR Exhibit “1” at 1; see also OMPR Exhibit “2” at 2.
49. Mr. Yen also generally agreed with OMPR’s experts in that “higher VLT glazing typically results in lower energy efficiency in a building. If sustainability and environmental consideration are priorities, lower energy consumption by a building may be more desirable than its transparency. This means that lower VLT values may be desirable.” See HCDA Exhibit “A” at 4.

G. THE GLASS RULE INHIBITS ENERGY EFFICIENT RESIDENTIAL TOWERS

- 50. There are many approaches to constructing a building energy simulation. See 7/22/2015 Tr. at 39:24-25.
- 51. Generally, for LEED compliance, mechanical engineers follow ASHRAE 90.1-2007, which sets forth specific requirements including, but not limited to, creating a baseline building and a proposed model. See 7/22/2015 Tr. at 39:25 to 40:3.
- 52. Creating the baseline building and the proposed model is a hypothetical simulation thereby forcing the calculating engineer to make some assumptions based on his or her experience and judgment. See 7/22/2015 Tr. at 40:4-7; see also 7/22/2015 Tr. at 94:4-10.
- 53. The following table summarizes OMPR’s mechanical engineering expert and consultant Keith Chan’s findings of the Symphony Honolulu Project’s glazing, calculated in 2013, and the highest energy performing glazing available from the two leading glazing manufacturers which have a VLT value of 50% or greater, as calculated in 2015:

Glass Specification	Viracon (Symphony) VRE1-30	Guardian SNX 62/72+IS20	Viracon VNE2-63
VLT	0.28	0.51	0.53
SHGC	0.19	0.22	0.26
Overall U-Value	0.27	0.23	0.26
Baseline Energy Use (kWh/yr)	13,790,378	13,790,378	13,790,378
Proposed Energy Use (kWh/yr)	12,374,144	12,448,840	12,576,237
Minimum 10% Savings Required per LEED® EA	10.3%	9.7%	8.8%

See OMPR Exhibit “3”; see also 7/22/2015 Tr. at 40:21 to 41:12.

- 54. Mr. Chan testified that he used the Carrier Hourly Analysis Program (version 4.6 HAP) which models annual energy usage in a LEED compliant method. See OMPR Exhibit “3.”
- 55. The Carrier Hourly Analysis Program is an appropriate and accepted methodology within the energy industry. See OMPR Exhibit “I” ¶ 9.
- 56. According to Mr. Chan’s calculations, the glazing currently used in the Symphony Honolulu Project produces a tower with an energy performance that is 10.3% better than the baseline building performance.

57. OMPR's glazing and design expert, John Gustafson, opined that "[i]t is absolutely not possible to both achieve a VLT value of 50% or greater and meet an SHGC value of less than 0.22 with the current coating technologies available in the marketplace. See OMPR Exhibit "C" ¶ 16.
58. Mr. Gustafson further opined that, specifically applied to the Symphony Honolulu Project, "you can make more than 1000 glass assembly combinations using all the available data for different glass types and availability, but no combination will allow the Symphony Honolulu Project to meet both its VLT and energy savings requirements." See OMPR Exhibit "C" ¶ 17.
59. Mr. Weir also testified that "[a]t this time, among the major suppliers we have researched throughout the world, we can find no high performance glass which can meet our necessary SHGC and the 50% VLT required in 15-217. This includes thousands of glass types as manufactured by Asahi, Cardinal, China Southern, Interpane, Guardian, NSG, Pilkington, PPG, Shanghai Pilkington, Saint Gobain and Viracon." See OMPR Exhibit "2" at 2.
60. According to Mr. Yen's independent and separate calculations, the glazing currently used in the Symphony Honolulu Project produces a tower with an energy performance that is 13.0% better than the baseline building performance. See HCDA Exhibit "A" at 9-10.
61. Mr. Yen used the construction set of building plans available in 2015, rather than 2013, and also used updated software – Carrier 4.9 versus 4.6 in constructing his energy modeling. See 7/22/2015 Tr. at 40:16-20.
62. Mr. Yen also testified that Douglas Engineering conducted several additional building energy model simulations for the Symphony Honolulu Project using glazing products that meet the Glass Rule standards: "The VLT for the glazing ranged from 51% to 58% and the energy efficiency over the baseline ranged from 10.3% to 10.7%." See HCDA Exhibit "A" at 9-10.
63. Two qualified engineers, both using acceptable and appropriate methodologies for modeling energy performance, came up with differing answers to the question of whether the Symphony Honolulu Project can satisfy both the requirements set forth in the "Green Building" section and the Glass Rule with glass readily available in the marketplace.
64. Mr. Weir testified that in Mr. Yen's report, "there were multiple other glasses with a visible light transmittance of over 50 percent and/or greater and they were mentioned as alternatives. None of these met the .19. The closest was .22, which is, obviously, with solar heat gain coefficient, the lower the better. The .22 is very much larger and would amount for quite a bit of energy." See 7/22/2015 Tr. at 26:9-16.
65. Notwithstanding the differing calculations from Mr. Chan and Mr. Yen, their results both show that residential developments using glazing with a VLT of 50%

or greater would not only be significantly less energy efficient than an identical residential development using glazing with a VLT of lower than 50%, but it will be impossible for future window wall residential buildings in Kaka‘ako to obtain LEED Silver, Gold, or Platinum. See 7/22/2015 Tr. at 70:3-8; see also 7/22/2015 Tr. at 87:11 to 88:10.

H. EFFORTS TO REGULATE GLAZING IN OTHER MUNICIPALITIES

66. OMPR’s glazing expert, Mr. Weir, testified that “Hawaii is not alone in the attempt to accommodate tenant comfort and limit energy consumption in this manner. California also has such provision in its Title 24 section of the current Code. The difference is that California’s is an approaching limiting U value, Relative SHGC and VT, or visible transmittance, which is defined as the rating for overall daylight transmittance of product including frame. The key here is that there is an understanding that VLT (or VT) cannot be regulated alone but only as a part of three interrelated factors affecting performance of exterior wall systems.” See OMPR Exhibit “2” at 2.
67. Mr. Weir further opined that he is unaware of any municipalities that regulate glass selection by VLT alone. See OMPR Exhibit “2” at 2.
68. Daniel Nishikawa, President of OMPR, also testified that OMPR has numerous development projects nationwide and has never run across a rule with a VLT minimum for residential tower glass. See 7/22/2015 Tr. at 57:22 to 58:7.

CONCLUSIONS OF LAW

To the extent that any Conclusions of Law are more properly construed as Findings of Fact (“FOF”), they shall so be construed.

A. THE GLASS RULE CONFLICTS WITH THE GREEN BUILDING RULE

69. The “Green Building” section, which promotes sustainability and energy efficiency in new Kaka‘ako development projects, is paramount to the Glass Rule.
70. Differing professional opinions by two qualified engineers as to whether a building can meet the Glass Rule, both using accepted and appropriate methodologies, indicates a serious, if not fundamental, flaw in the Glass Rule.
71. The Glass Rule would require developers to build less energy efficient buildings by requiring a high VLT, which correlates to a high SHGC.
72. The Glass Rule, as currently written, substantially impairs or prevents residential high-rise projects in Kaka‘ako from meeting the minimum LEED standards and the requirements of the Mauka Area Rules’ “Green Building” section and makes it impossible for future projects to achieve LEED Silver, Gold, or Platinum.

73. Consequently, the Glass Rule conflicts with the “Green Building” section of the Mauka Area Rules and results in the unintended consequence of less sustainable and less energy efficient building design in the Kaka‘ako District.

B. PUBLIC INTEREST

74. In FOF ¶ 23, it was found that the purpose of the Glass Rule was to regulate a Kaka‘ako project’s reflectivity to prevent a “heat island” effect on the surrounding area.
75. In FOF ¶ 31, it was found that a lower VLT neither correlates to daytime visibility in or out of a residential unit nor a glazing’s reflectivity.
76. In FOF ¶ 30, it was also found that in order to formulate an enforceable standard for glazing reflectance, the Authority would need to first assemble a team of glazing experts to do a study taking into account VLT, SHGC, reflectance, and other pertinent factors.
77. In light of the findings above, there are no alternate means for which the spirit and the intent of the Glass Rule, for which OMPR seeks a waiver, can be accomplished, as the Glass Rule itself does not regulate reflectivity.
78. Granting OMPR’s Petition will not endanger the health, safety, or welfare of persons residing in the Kaka‘ako Community Development District.
79. In fact, consumers and the public will benefit more from a lower VLT, within industry standards, because a lower VLT in turn facilitates the selection of glazing with a lower SHGC which lowers energy consumption and cost. See OMPR Exhibit “4.”
80. Waiver of the Glass Rule as to the Symphony Honolulu Project will allow OMPR to proceed with building a more sustainable and energy efficient building than could be built with strict enforcement of the requirement of glass with a VLT of 50% or higher.
81. As such, granting OMPR’s Petition is in the long-term, best interests of the Kaka‘ako Community Development District.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Authority hereby orders that:

1. OMPR’s Petition is GRANTED with respect to its request for a waiver of HAR § 15-217-55(k)(2) as to the Symphony Honolulu Project and that such waiver be made retroactive as of and from April 5, 2015.

2. OMPR's Development Permit No. KAK 12-075 is hereby amended to waive any requirement that OMPR comply with HAR § 15-217-55(k)(2) in the development and construction of the Symphony Honolulu Project.

DATED: _____.

JOHN WHALEN
Chairperson
Hawaii Community Development Authority

BEFORE THE HAWAII COMMUNITY
DEVELOPMENT AUTHORITY

In the Petition of) DOCKET NO. CCED KAK 2015-2
)
OLIVERMcMILLAN PACIFIC RIM, LLC,)
)
for waiver and suspension of § 15-217-55(k)(2))
of the Mauka Area Rules as applied to the)
Symphony Honolulu Project.)
_____)

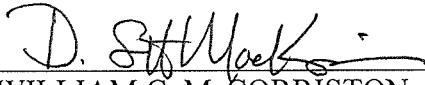
CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES that a true and correct copy of the
foregoing document was duly served upon the following parties via hand-delivery, addressed as
follows:

HAWAII COMMUNITY DEVELOPMENT
AUTHORITY
547 Queen Street
Honolulu, Hawaii 96813

Attention: Anthony J. H. Ching
Executive Director

DATED: Honolulu, Hawaii, July 29, 2015.



WILLIAM C. McCORRISTON
D. SCOTT MacKINNON

Attorneys for Petitioner
OLIVERMcMILLAN PACIFIC RIM, LLC